

### **REMARKS**

This responds to the Office Action mailed on June 21, 2005.

Claims 1, 26, 45, and 50 are amended, no claims are newly canceled, and claims 53 to 58 are added; as a result, claims 1, 2, 4, 7-26, 28, and 31-58 are now pending in this application.

Present claims 1, 26, 50, 53 to 58 recite that the claimed seat comprises at least two compositions which form one multi-composition when said at least two compositions are placed or extruded into specific locations of a mold until the mold is filled, and the filled mold is heated. Support for the changes to claims 1, 26, 50, and 53 to 58 is present, e.g., at page 110, last three paragraphs of Applicant's specification.

Claim 45 is amended to correct the inadvertent omission of the end of the claim presented in the Response filed on March 22, 2005. The inserted claim language is taken directly from original Claim 45 in the application as filed. No new subject matter has been added.

### **Information Disclosure Statement**

Applicant submitted an Information Disclosure Statement and a 1449 Form on June 17, 2005. Applicant respectfully requests that an initialed copy of the 1449 Form be returned to Applicant's Representatives to indicate that the cited references have been considered by the Examiner.

### **§102 Rejections of the Claims**

Claims 1-2, 4, and 7-8 were rejected under 35 U.S.C. § 102(e) as allegedly anticipated by Schmale (US Patent 6,481,801).

Claims 1-2, 4, and 7-9 were rejected under 35 U.S.C. § 102(b) as allegedly anticipated by Harding et al. (US Patent 6,142,573).

Claims 1-2, 4, and 7-8 were rejected under 35 U.S.C. § 102(e) as allegedly anticipated by Lampel (US Patent 6,625,830).

Claims 1-2, 4, 7-26, 28, and 31-52 were rejected under 35 U.S.C. § 102(b) as allegedly anticipated by Snyder *et al.* (US 4,522,447).

These rejections are respectfully traversed.

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Bros. v. Union Oil of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The identical invention must be shown in as complete detail as is contained in the claim. *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ 2d 1913, 1920 (Fed. Cir. 1989). To constitute anticipation, the claimed subject matter must be identically disclosed in the prior art. *In re Arkley*, 172 U.S.P.Q. 524 at 526 (C.C.P.A. 1972). For anticipation, there must be no difference between the claimed invention and the reference disclosure, as viewed by a person of ordinary skill in the art. *Scripps Clinic & Res. Found. v. Genentech, Inc.*, 927 F.2d 1565, 18 USPQ2d 101 (Fed. Cir. 1991). To overcome the defense of anticipation, "it is only necessary for the patentee to show some tangible difference between the invention and the prior art." *Del Mar Engineering Lab v. Physio-Tronics, Inc.*, 642 F.2d 1167, 1172, (9th Cir. 1981).

Moreover, an anticipation rejection that is based on inherency must be supported by factual and technical grounds establishing that the inherent feature must flow as a necessary conclusion, not simply a possible conclusion, from the teaching of the cited art. *Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Int. 1990); *In re Oelrich*, 666 F.2d 578, 212 U.S.P.Q. 323, 326 (C.C.P.A. 1981).

The present claims recite that Applicant's claimed seat comprises a multi-composition formed from at least two compositions that are placed or extruded into specific locations of a mold until the mold is filled and then heating the filled mold. The resulting seat may comprise adjoining sections with different densities and differing degrees of firmness, depending upon the nature of the compositions employed and their locations in the mold. Thus, the seat may be formed without horizontal layering or adhesive bonding of various sections.

Schmale discloses a seat made of one foam material only, wherein channel-like grooves cause zonal weakenings resulting in different supporting strengths. Column 1, lines 48-54. In contrast, Applicant's seat comprises a multi-composition formed from at least two compositions, wherein differing supporting strengths in the finished seat are achieved by virtue of the choice of compositions at the time of molding.

Harding *et al.* discloses a seat made of one foam material only, wherein different densities are achieved by varying the shape of the seat. For example, a wedge-shaped section is

formed upon which the occupant's legs would rest. Column 2, lines 53-55. In contrast, Applicant's seat comprises a multi-composition formed from at least two compositions, wherein differing supporting strengths in the finished seat are achieved by virtue of the choice of compositions at the time of molding.

Lampel discloses a seat comprising adjacent horizontal layers, which may have differing densities, wherein the layers are bonded together with suitable adhesives. Column 6, lines 6 and 7. In contrast, Applicant's seat comprises a multi-composition formed from at least two compositions, wherein differing supporting strengths in the finished seat are achieved by virtue of the choice of compositions at the time of molding.

Snyder *et al.* discloses a seat that comprises segments of various shapes and moduli of elasticity, wherein the segments are assembled to form the seat. Column 3, lines 30-36. In contrast, Applicant's seat comprises a multi-composition formed from at least two compositions, wherein differing supporting strengths in the finished seat are achieved by virtue of the choice of compositions at the time of molding.

In sum, the cited documents do not disclose Applicant's claimed invention identically. Accordingly, there can be no anticipation. Withdrawal of these rejections is respectfully requested.

#### §103 Rejection of the Claims

Claims 23-25 and 47-52 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Snyder *et al.* in view of Grant *et al.* (US Patent 3,647,260) and Nickerson *et al.* (US Patent 5,869,164). This rejection is respectfully traversed.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation either in the cited references themselves or in the knowledge generally available to an art worker, to modify the reference or to combine reference teachings so as to arrive at the claimed method. Second, the art must provide a reasonable expectation of success. Finally, the prior art reference must teach or suggest all the claim limitations (M.P.E.P. § 2143). The teaching or suggestion to arrive at the claimed method and the reasonable expectation of success must both be found in the prior art, not in Applicant's

disclosure (M.P.E.P. § 2143 citing with favor, *In re Vaeck*, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991)).

Snyder *et al.* has been described supra. The Examiner has cited *Grant et al.* and Nickerson *et al.* for their disclosure of specific materials, which the Examiner asserted are not specified in Snyder *et al.* Office Action at page 4. Therefore *Grant et al.* and Nickerson *et al.* do not remedy the deficiencies of Snyder *et al.* Accordingly, the cited combination of documents does not teach or suggest all the claim elements. In addition, absent Applicant's disclosure, one would have had no motivation or expectation of success for achieving Applicant's invention from the cited documents. Withdrawal of this rejection is respectfully requested.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (703) 239-9592 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

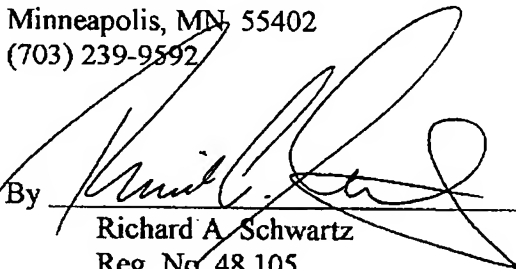
ADAM J. KOFFLER

By his Representatives,

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.  
P.O. Box 2938  
Minneapolis, MN 55402  
(703) 239-9592

Date 21st October 2005

By

  
Richard A. Schwartz  
Reg. No. 48,105

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 21 day of October, 2005.

KACIA LEE  
Name

Kacia Lee  
Signature